

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.20718 OF 2023

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:-

"To issue an appropriate writ or direction more particularly one in the nature of writ of mandamus:

a) by declaring the entire action of the respondents, particularly the entire action of the 3rd respondent in issuing in the present Impugned Proc. Rc.No.A1/216/2020, dt.14.02.2023, wherein without cancelling earlier orders of punishment issued vide Proc.RC.No.A1/216/2020 dt.28.10.2021 of the 3rd respondent for the same issue on the untenable ground that the appeal petition of the petitioner was rejected by the 2nd respondent vide Lr.Rc.No.A3/1687/2022 dt.01.12.2022 even without releasing the withhold increments, which were already with held in furtherance of earlier punishment orders dated 28.10.2021 is as highly illegal, arbitrary, unjust, contrary to Rule-21 of CCA Rules including contrary to various Judicial Pronouncements in the subject matter and set-aside the earlier punishment order dt.28.10.2021 and present Proceedings dt.14.02.2023 of the 3rd respondent and orders of appeal dt.01.12.2022 of the 2nd respondent.

b) to hold the entire procedure adopted by the 3rd respondent in issuing the impugned proceedings in

Proc.RC.No.A1/216/2020 dt.28.10.2021 and, subsequent proceedings Rc.No.A1/216/2020 dated 14.02.2023 and appeal rejection orders vide letter Rc.No.A3/1687/2022 dt.01.12.2022 of the 2nd respondent even without assigning any reasons bad in law and further direct the respondents to consider the case of the petitioner for promotion to the post of Senior Assistant, without reference to the above impugned orders dt.28.10.2021, 14.02.2023 & 01.12.2022 of the 3rd and 2nd respondents and pass such order or orders."

2. Through the proceedings dated 28.10.2021, a punishment was imposed against the petitioner withholding of two increments with cumulative effect. Aggrieved by the said order, the petitioner herein has preferred an appeal before the appellate authority, i.e., 2nd respondent herein, against the imposing of the punishment of withholding of two increments with cumulative effect. The appellate authority has passed the present impugned order. Aggrieved by the said order in dismissing/rejecting the appeal, the present Writ Petition came to be filed on the ground that the appellate authority has not passed a reasoned order after considering the material available on record as contemplated under Rule 37 of the Classification,

Control and Appeal Rules. The said rule which contemplated is hereby extracted as follows:

"Rule 37. Consideration of appeal:-

(1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 8 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 9 or Rule 10 or enhancing any penalty imposed under the said rules, the appellate authority shall consider:-

(a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in failure of justice;

(b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe and pass orders:

(i) confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case."

3. The impugned order alludes that no prescribed procedure was followed by the appellate authority while disposing of the appeal. Hence, the impugned order is liable to be set aside and accordingly it is set aside and the matter is remanded to the appellate authority to pass orders keeping in view of the Rule 37 of the Classification, Control and Appeal Rules within a period of three months from the date of receipt of a copy of this order.

4. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs of the Writ Petition.

As a sequel, interlocutory applications, pending if any in this Writ Petition shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 14.08.2023

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